

Amendments to the Drawings.

The attached sheets of drawings are formal and include Figs. 1-3. These formal drawings were previously submitted in the application in the amendment of May 27, 2005. The attached copies of drawings are here again supplied but with the addition of "Replacement Sheet" in compliance with 37 CFR 1.121(d). (in the form previously submitted in the application) for convenience of the examiner.

Remarks/Arguments:

Claims 1 and 6-16 were pending in the application.

Claim 8 is hereby amended to correct wording.

All other pending claims remain as previously presented.

1. Oath/Declaration. Applicant submits a corrected oath/declaration.
2. Drawings. Applicant re-supplies the formal drawings that were submitted in the application with the amendment dated May 27, 2005.
3. Claim 7 was rejected under 35 USC 112, as failing to comply with the enablement requirement. The examiner contends that the specification does not define the abbreviation “CDPD” as claimed. Pursuant to the rule that the claims form part of the specification, the reference to CDPD has been incorporated in the paragraph appearing on page 5, lines 1-11. The original claim 7 included the abbreviation “CDPD”, so no new matter is added by the amendment. Additionally, at the priority date, CDPD was known in the art of wireless networking and data communications as referring to “cellular digital packet data”, a specification for supporting wireless access to the Internet and other public packet-switched networks.
4. Claims 1 and 6-16 were rejected under 35 USC 103(a) as obvious over Gelman.
The examiner states that Gelman “does not explicitly teach the hooking layer... the translation is being done at source and destination gateways”, and contends that “one of ordinary skill in the art would have been motivated to modify the teaching of Gelman by employing a hooking layer”. Applicant submits that the examiner’s contention of ordinary skill and motivation to modify in order to “hook” certain communicated data for

operations by standard software applications is inappropriate hindsight – and, even if the examiner’s contention were plausible (as to which Applicant strongly disagrees), Gelman nonetheless, even if provided with a hooking layer or capability at the client device does not yield Applicant’s claimed inventions.

Foremost, Gelman regards only satellite communications between gateways, using protocols (i.e., referred to in Gelman as “second protocol”) applicable to satellite microwave channels. Whatever this second/satellite protocol may be as to Gelman, it is certainly not any Internet Protocol (IP) communications between the gateways. Gelman communicates from gateway to client device (or otherwise beyond the gateway) by IP protocols (i.e., referred to in Gelman as “first protocol”), and thus the Gelman destination gateway must translate *from the satellite link protocol to the IP protocol at the destination gateway* and, correspondingly, for the source gateway must translate *from the IP protocol to the satellite protocol at the source gateway*. So, the Gelman source gateway translates from IP protocol to satellite link protocol, the Gelman destination gateway translates from satellite link protocol to IP protocol. In each instance, IP protocol is the communicative format for communications by the client device, server device, or other device communicatively connected to the gateway; but the satellite communications between gateways are by necessity of satellite protocols (and medium).

Applicant’s claims differentiate, and expressly and distinctly point out, that communications between the source and destination servers -- which the examiner apparently attempts to analogize to the satellite communications between the satellite gateways, but which applicant submits is inappropriate because of the completely different mediums of IP network versus satellite -- is by IP protocols (i.e., either standard

or specialized, but in each case it is Internet Protocol format). And, the claims also expressly and distinctly point out that the IP protocol communications are also the format of communications beyond the respective servers to client device (or otherwise), whereas only the gateway to client communications could be IP format in the satellite arrangement.

Because applicant employs IP protocols in all communications (i.e., either standard or specialized, but in each case conforming to IP formats), standard Internet and other IP networks serve to carry the communications (for both communications/networks that are wired and wireless). The Gelman satellite communications, on the other hand, are not suitable for communications to or from any client/server beyond the gateway – this would require that the client/server or other device beyond the gateway be, itself, a satellite communicator, rather than an Internet (or other IP protocol) network device. Thus, Gelman must translate at the gateway to and from network protocols (i.e., first protocol in communications beyond gateways) and satellite protocols (i.e., second protocol in communications between gateways). There is not any motivation of Gelman or one skilled in the art to either: communicate according to the second protocol (i.e., satellite) to client/server devices beyond the gateway, nor communicate via satellite (i.e., between gateways) according to IP protocols (i.e., the first protocol; if that's even possible) and to translate to satellite protocols (i.e., the second protocol; that is, IP protocols, if that's possible) for communications from gateways to other devices over networked and Internet devices.

Basically, there is not any motivation to make Gelman operate through the completely different medium of cellular wireless, or to communicate by IP protocols via

satellite. As there is not any such motivations with the satellite communications of Gelman, Gelman and ordinary skill do not show the motivation suggested by the examiner and would not yield applicant's claimed inventions in any event.

Beyond the foregoing differences and explanation, several of applicant's claims specifically address cellular wireless (rather than satellite). The examiner apparently contends that satellite is analogous to cellular wireless, however, cellular wireless is completely different in many variables, medium characteristics, latencies, lost connections, etc. etc. Data communications by cellular wireless, in particular, are riddled with concerns/impediments that are completely different/distinct/non-analogous to satellite. For instance, cellular wireless communications are basically land-based radio signals – not microwave and orbital links. Cellular wireless is not analogous to satellite as in the simplified respect purported by the examiner. The examiner provides no supporting evidence, teaching or suggestion that could or would bridge between the great stretch that was made by the examiner in concluding otherwise.

Finally, the examiner must be viewing in hindsight both the problem and objective of applicant, rather than finding any support whatsoever in the Gelman reference and what the examiner purports as ordinary skill. Also, the examiner is viewing in hindsight as to the level of ordinary skill, as no support whatsoever is provided by the examiner as to what that applicable level was at the time of the applicant's claimed invention. The law remains quite clear in the Federal Circuit that a reference that does not address the same problem "fails to provide a sufficient motivation" and that a patent claim is not obvious unless "the differences between the claimed invention and the prior art 'are such that the subject matter as a whole would

have been obvious at the time the invention was made to a person having ordinary skill in the art”. *E.g., Teleflex Inc. v. KSR Intern. Co.*, 119 Fed.Appx. 282 (Fed. Cir. 2005). The MPEP 2143 states three requirements for an obviousness rejection as follows: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there must be a reasonable expectation of success; and (3) the prior art reference must teach or suggest all claim limitations.

Clearly, under the applicable law and the MPEP guidance, the rejection can not be maintained. The examiner merely states that elimination of need for another computer and speed would be reasons for the suggestion or motivation. However, neither of these are the suggestion or motivation in the cellular wireless environment. In fact, the elimination of another computer is not even involved. As to speed, the only speed consideration (as addressed in applicant’s specification and the related/incorporated applications) is that limiting number of communications in the cellular wireless environment is desirable – because of the particular medium and its characteristics (one of which is speed of the transmission; albeit not the exclusive or main reason). There is not any particular consideration or ground for speed at the client in processing, in fact, the protocol between server and client over the wireless channel (not between servers, etc.) is where the specialized IP protocols of applicant’s claims have significance.

As to reasonable expectation of success, it has been addressed above that the satellite environment of Gelman could not operate (it appears) by IP protocols on satellite channels and specialized protocols from gateway to device. Any translations must occur

at the gateway of Gelman, whereas such translation would not yield applicant's claimed invention or solve the problems or address reasons for it.

Finally, there is not any support whatsoever provided by the examiner to show level of ordinary skill or to show why/how Gelman would suggest or provide any motivation in the manner purported by the examiner. The examiner's thoughts about the level of skill and Gelman are solely conclusory, and as has been discussed, are not plausible – particularly as to cellular wireless communications and the basic gist of the problems and nuances addressed in applicant's amended claims.

If the Examiner has any questions or comments, the undersigned attorney for Applicant respectfully requests a call to discuss any issues. The Office is authorized to charge any excess fees or to credit any overage to the undersigned's Deposit Account No. 50-1350.

Respectfully submitted,

Date: August 21, 2006

By: 
H. Dale Langley, Jr.
Reg. No. 35,927

The Law Firm of H. Dale Langley, Jr.
610 West Lynn
Austin, Texas 78703
Telephone: (512) 477-3830
Facsimile: (512) 477-4080
E-Mail: dlangley@iptechlaw.com